

DAVID F. KOZEL, )  
)  
Plaintiff, )  
)  
v. ) Civil Action No. 7:16-cv-1672-DCC  
)  
DEBORAH L. KOZEL, MICHAEL E. )  
SPEARS, Esq., DALLAS C. KOZEL, )  
and INDIA L. KOZEL, )  
)  
Defendants. )  
)

Plaintiff filed a Motion to Seal on May 6, 2019, and provided the documents for in camera review. ECF No. 354. Before this Court may seal the Documents, it must: (1) provide public notice of the request to seal and allow interested parties an opportunity to object; (2) consider less drastic alternatives to sealing; and (3) provide specific reasons and factual findings in support of the decision to seal and reject alternatives to sealing. *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000).

The filing of this motion on the Court’s ECF system provides notice to all parties to this action as well as public notice of Plaintiff’s request to seal. *See, e.g.* Local Civil Rule 5.3(D) (noting that, “[a]bsent direction to the contrary, this [public notice] may be accomplished by docketing the motion in a manner that discloses its nature as a motion to seal”).

The relevant exhibits cannot be simply redacted because they are either therapy notes or reports from mental health professionals which include sensitive, personal information including, but not limited to, the results of psychological testing, medical and social history, and interview notes between therapists and the then-minor Defendants. As for the memorandum of law, Plaintiff has redacted the limited portions

that quote from these confidential exhibits and requests only that those portions of the memorandum be filed under seal. For these reasons, it appears that there are no less drastic measures that can be taken to ensure the confidentiality of these private Documents relating to the Defendants' medical and psychological histories.

***Reasons for the Seal.***

As noted above, each of the exhibits sought to be sealed contains sensitive information. Publicly filing the Documents does not serve the public interest, and Plaintiff understands the Kozel Defendants to maintain that public filing may impinge upon their privacy rights. As such, they have asked the Documents be kept confidential. *See, e.g., In re The Knight Publishing Co.*, 743 F.2d 231, 235 (4th Cir. 1984) ("The trial court . . . may, in its discretion, seal documents if the public's right of access is outweighed by competing interests"). Moreover, it appears from the separately sealed attachment labeled, "Confidential Information to be Submitted to the Court in Connection with Motion to Seal," submitted herewith for *in camera* review pursuant to Local Civil Rule 5.03(C), redacting the exhibits would result in the filing of entirely blacked-out pages. In sum, the sensitive nature of the limited set of Documents at issue counsels in favor of a seal, and the Court finds that less drastic measures (such as redaction) are not viable options. Upon due consideration of Plaintiff's Motion to Seal [ECF No. 354] and review of the documents submitted *in camera* regarding same,

**IT IS HEREBY ORDERED** that Plaintiff may file each of the documents listed on the chart below under seal.

<b>Document</b>	<b>Description</b>
Exhibit O	Report of William F. Fischer, Ph. D.
Exhibit T	Excerpts of Caryn Coons's Notes
Exhibit U	Excerpts of Records from SUWS
Exhibit W	Letters written by Dallas Kozel
Exhibit X	SUWS Intake
Exhibit Z	Excerpts of Records from SUWS
Exhibit AA	Report of Scott J. Miller, Psy. D.
Exhibit DD	Excerpted Spring Ridge Progress Notes
Exhibit EE	Excerpts of Kimberly Rosborough Clinical Notes
Exhibit FF	Excerpted Spring Ridge Progress Notes

<b><u>Document</u></b>	<b><u>Description</u></b>
Memorandum of Law	Plaintiff's Memorandum of Law in Support of Its Motion to Strike, and in Opposition to the Kozel Defendants' Motion for Summary Judgment (dated May 1, 2019) - Unredacted

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

May 8, 2019

Spartanburg, South Carolina